(3)

WA 184/07

WP 16161/03

IN THE M.P. ADMINISTRATIVE TRIBUNAL, JABALPUR, M.P.

Original Application No. 2653 of 1999.

Applicants :: Kumari Shanti Dubey.
D/o Shri R.S.Dubey,
Aged about 30 years,

2. Raji Koshi, S/o K.K.Koshi
Aged about 32 years,

Occupation: Both Daily Wages employee and posted at the Office of Range Officer Range Circle Bilaspur dist. Bilaspur.

Versus.

Respondents :: The State of M.P. through its Secretary, Forest Department Vallabh Bhavan, Bhopal, M.P.

2. The Chief Conservator of Forest M.P. Bhopal.

3. The Divisional Forest Officer Bilaspur Forest Divn. Bilaspur.M.P.

4. The Range Officer, Forest Range Circle Bilaspur dist. Bilaspur, M.P.

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNALS ACT, 1985.

1. Particulars of the applicants:

As given above in the cause title.

2. Particulars of the Respondents:

As given above in the cause title.

Contd..2.

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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

W. P. (S) No. 1852 of 2005

Petitioners : Kumari Shanti Dubey & another

Versus

Respondents : The State of M. P. (now Chhattisgarh) & others

None for the petitioners.

Smt. Anju Ahuja, Deputy Govt. Advocate for the respondents.

O R D E R

(Passed on this 16th day of January, 2007)

1. The petitioners have filed this petition for quashing of the orders dated 31.8.1999 (Annexure A/1 and A/2) whereby the services of the petitioners were put to an end in absence of availability of work for them.

2. Indisputable facts, in nutshell, are that the petitioners were appointed as daily wages employees (labour) on 1.10.1988 and 1.11.1987, respectively. By order dated 31.8.1999 the engagement of the petitioners came to an end on the ground that there was no work available for them. The petitioners in this petition have sought for quashing of the impugned orders dated 31.8.1999 and further a direction to continue their services till their regularization in service.

3. In view of the settled position of law as enunciated by a Constitutional Bench of the Supreme Court in the case of ***Secretary, State of Karnataka and others Vs. Umadevi***[1] which was followed later on in various decisions by the Supreme Court, viz. ***Accounts Officer (A&I) A.P.SRTC and others vs. P. Chandra Sekhara Rao and others***[2], ***Surinder Prasad Tiwari vs. U.P. Rajya Krishi***

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Utpadan Mandi Parishad and others[3], ***Nagar Mahapalika (now Municipal Corpn.) vs. State of U.P. and others***[4] and ***U.P. State Road Transport Corporation vs. Man Singh***[5], daily rated, temporary or ad hoc appointees have no right to the post as their appointment was not in accordance with the constitutional scheme of the appointment and not in accordance with any Rules, Regulations, as framed under the proviso to Article 309 of the Constitution of India.

4. In the present petition, appointment of the petitioners was on daily wages basis on availability of work, de-hors the constitutional scheme and as such, the appointments of the petitioners came to an end when no work was available for them.

5. For the reasons above-stated and as per the dicta laid down by the Supreme Court, the petitioner is not entitled for reappointment/ reinstatement in the service.

9. This petition is accordingly dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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1 (2006) 4 SCC 1
2 (2006) 7 SCC 488
3 (2006) 7 SCC 684
4 2006 AIR SCW 2497
5 2006 AIR SCW 5159

Thakur